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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
NEXUS COMMUNICATIONS,)
INC., d/b/a TSI TELEPHONE)
COMPANY,)
Applicant,)
) No. 11-0361
Application for increased)
service areas related to)
its designation as an)
eligible)
telecommunications carrier)
for purposes of receiving)
federal universal services)
support pursuant to)
Section 214(E)(2) of the)
Telecommunications Act of)
1996,)

Chicago, Illinois
January 24, 2013

Met, pursuant to adjournment, at 11:05 a.m.,
in Conference Room S-801, 160 North LaSalle Street,
Chicago, Illinois.

BEFORE:

Mr. John T. Riley, Administrative Law Judge

1 APPEARANCES:

2 ROWLAND & MOORE, LLP,

3 (200 West Superior Street, Suite 400,

Chicago, Illinois 60654,

4 (312) 803-1000), by:

MR. THOMAS H. ROWLAND,

5 tom@telecomreg.com,

for Nexus Communications, Inc.,

6 d/b/a TSI Telephone Company;

7 ILLINOIS COMMERCE COMMISSION,

(160 North LaSalle Street, Suite C-800,

8 Chicago, Illinois 60601-3104,

(312) 793-2877),

9 MR. MICHAEL J. LANNON, and

MS. KIMBERLY SWAN,

10 mlannon@icc.illinois.gov,

kswan@icc.illinois.gov,

11 for the Staff.

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I N D E X

WITNESS	DX	CX	RDX	RCX	By Judge
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None.

S T A F F E X H I B I T S

NUMBER	MARKED FOR ID	IN EVIDENCE
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None.

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket 11-0361.
3 This is an application by Nexus Communications, Inc.,
4 d/b/a TSI Telephone Company for increased service
5 areas related to its designation as an eligible
6 telecommunications carrier for purposes of receiving
7 federal universal support pursuant to section
8 214(E)(2) of the Telecommunications Act of 1996.

9 And counsel for the applicant, would
10 you enter an appearances for the record, please?

11 MR. ROWLAND: Thank you, your Honor. Thomas
12 Roland of the law firm of Rowland & Moore, 200 West
13 Superior Street, Suite 400, Chicago, Illinois, 60654,
14 on behalf of Nexus Communications, Inc., d/b/a TSI
15 Telephone Company.

16 JUDGE RILEY: Thank you.

17 And for commission staff?

18 MS. SWAN: On behalf of staff of the Illinois
19 Commerce Commission, Kimberly Swan and Michael
20 Lannon, 160 North LaSalle Street, Suite C-800,
21 Chicago, Illinois, 60601.

22 JUDGE RILEY: Okay.

1 I'm going to begin with staff counsel,
2 because as you said off the record, Mr. Rowland, this
3 is an application for a designation of an additional
4 service area.

5 MR. ROWLAND: Right.

6 JUDGE RILEY: And staff apparently has come up
7 with some issues --

8 MR. LANNON: We're taking a fresh look at it,
9 your Honor.

10 JUDGE RILEY: One of the things -- this matter
11 was filed April 19, 2011. We had a prehearing
12 conference May 23, 2011. And from that point on, it
13 was scheduled -- it was continued to June 24, 2011,
14 and has been continued without a transcript, without
15 us getting together, all the way up to today's date.
16 And staff, just fill me in. What is -- what is the
17 delay? What is the tie up? What are the issues?
18 What's --

19 MR. LANNON: Well, I think it was a delay.
20 And, Tom, correct me if I'm wrong. I thought it was
21 mutual.

22 JUDGE RILEY: Well, all right. Then maybe

1 delay was the wrong word. But why do we, after two
2 years after the filing -- almost two years after the
3 filing -- and year and a half of continuances does
4 staff want to take a fresh look at it?

5 MR. LANNON: Well, your Honor, I believe we are
6 waiting for the FCC to act. I'm not exactly sure. I
7 believe it was both of Tom's clients, but I'm not a
8 hundred percent sure of that. And I do believe the
9 FCC recently did act. Mr. Rowland would probably
10 have more information on that.

11 JUDGE RILEY: All right.

12 No, I understand that. But now that
13 the FCC has acted, what is staff's -- what is staff's
14 position now?

15 MR. LANNON: The applicant came in with an
16 application for additional ETC area. We are treating
17 all ETCs differently than we did before. We are
18 taking an in-depth look at all ETCs. We've had
19 numbers of problems. They're still ongoing. We have
20 whistle blowers from the past and present, all of
21 which is confidential. It's even been to the point
22 where the FBI has been involved. So we are dealing

1 with a lot of potential problems out there that we
2 want to put an end to.

3 MR. ROWLAND: Well --

4 JUDGE RILEY: Mr. Rowland?

5 MR. ROWLAND: As I was saying before, there was
6 a statement by one of the staff people, and I guess
7 he's not -- Jeff's no longer here; is that right?

8 MR. LANNON: Jeff is in Florida, in the Keys
9 somewhere.

10 MR. ROWLAND: That this case and others should
11 wait until the FCC order came out, which was February
12 of last year. So that was -- the order had set out
13 what was to happen in terms of the handling of ETCs.
14 Then even though the various duties of state
15 commissions and the FCC were spelled out in that
16 order, we were told we had to wait until the
17 compliance plan was approved at the FCC. And Nexus
18 had filed a compliance plan, and it was approved.
19 And it took some months to get that done, and we
20 didn't hear until December. So that's now completed.
21 But that was the last thing we heard in terms of any
22 sort of holdup -- you know, whether intentional or,

1 you know, institutional, whatever. That was sort of
2 the holdup, to get -- to get that piece done. That's
3 what the public notice is about, and staff has that
4 as well so --

5 MR. LANNON: And I would agree with all of
6 that, your Honor.

7 MR. ROWLAND: And the concern now is that after
8 two years, if staff has questions, they should ask
9 those questions. And we'd like to get those
10 questions quickly. Let me finish. Let me finish.
11 Let me finish, Mike.

12 MR. LANNON: After two years --

13 JUDGE RILEY: Well, that's okay. Let me -- let
14 me hear Mr. Rowland. Okay?

15 MR. ROWLAND: Whether or not we were waiting
16 for the FCC or not, the jurisdiction of the staff for
17 the ICC, if they have questions about the Public
18 Utilities Act, they can ask those at any time. They
19 can ask them any time, outside of a particular
20 docket, too, by the way.

21 MR. LANNON: We were waiting for the
22 compliance.

1 MR. ROWLAND: Well, that's --

2 MR. LANNON: Just like you said earlier.

3 MR. ROWLAND: That's -- that's fine. But we
4 don't have any data requests. We'd like to have the
5 data requests right away. We're not willing to wait
6 until late February or March. That's unacceptable.
7 There's no reason, since you are already submitting
8 data requests to various companies, have submitted
9 them, that you can't just make those available in
10 a -- you know, in a general form or a generic form
11 pretty quickly, and we can turn those around. My
12 belief is that many of the questions go to the
13 administrative code that the companies operate under
14 in Illinois. I have a printout of all of -- all of
15 the different service requirements for wireless ETCs.
16 We're familiar with those. We've answered those in
17 relation to other cases. And I just don't want to be
18 beholden on what's happening with Budgetel or some
19 other company. I want to move forward for my clients
20 because you're affecting business. You're affecting
21 the operations, their ability to expand with
22 employees and expand their business. They've been

1 waiting on hold, and it's just not appropriate to
2 continue this out. As I said before, even if one
3 wasn't under a particular docket, staff has the right
4 to ask any questions about, you know, a company
5 that's pertinent. That's fine. Nobody's objecting
6 to that. What we are objecting to is that months and
7 months and months, you know, are perceived to be,
8 well, we'll just wait and see. And by that, the
9 company cannot expand its service territory. I think
10 that's just wrong.

11 JUDGE RILEY: Mr. Lannon, my concern is that
12 after all of the time that has passed since the
13 matter was filed and all of the continuances that
14 were granted waiting for approval of the compliance
15 plan and whatnot, are we back at square one? I mean,
16 are we back at the beginning?

17 MR. LANNON: Yes, your Honor, because we were
18 waiting for the compliance plan. So it wasn't a
19 number of years. It was since December. Now -- and,
20 your Honor, I find a lot of what Mr. Rowland says to
21 be very offensive here. He's telling -- he
22 represents a regulated utility. I represent the

1 regulators. And he's coming in here telling us how
2 to do our job, and I don't like it. And I take great
3 offense to it.

4 JUDGE RILEY: Well, what is staff's --

5 MR. LANNON: We're going to send out DRs as
6 quickly as we can.

7 JUDGE RILEY: Do you have any idea how soon
8 that will be?

9 MR. LANNON: Two, three weeks.

10 MS. SWAN: We indicated, Mr. Rowland, that we
11 anticipated --

12 MR. LANNON: Hey, she's talking, Tom.

13 JUDGE RILEY: All right.

14 Calm down.

15 MS. SWAN: We anticipated sending out our first
16 set of DRs in mid to late February. And then
17 depending on what the answers are to those DRs, we
18 might have to do additional rounds of DRs. We would
19 suggest setting a status following receipt of the
20 responses to our first set of DRs, at which time we
21 might be -- we could potentially set it for another
22 schedule, but we might need additional sets of DRs

1 depending on the responses that we receive.

2 MR. ROWLAND: Here's --

3 MS. SWAN: If I may, I think that our DRs are
4 dependent on the outcome of the compliance filing
5 with the FCC. And that's why we were waiting, and
6 that is why we've waited and are now drafting our
7 discovery request because we only just got the FCC
8 compliance approved in December.

9 JUDGE RILEY: Well, Mr. Rowland has proposed
10 several dates here. One is the staff data request
11 issued by January 31. I take it, from staff, that's
12 not realistic?

13 MS. SWAN: No, your Honor.

14 MR. ROWLAND: Well, my suggestion is -- I will
15 push that out another week if you'd like. As I said,
16 many of these questions are standard types of
17 questions that we believe staff is already asking
18 companies. To Mike's point earlier about this has
19 just happened in December, my understanding is there
20 are compliance plans that were approved back in last
21 summer. And you would think that those cases would
22 be further along. It's not just --

1 MR. LANNON: Again, Mr. Rowland is telling us
2 how to proceed with our job.

3 MS. SWAN: Mike, this is really only about the
4 Nexus docket. I think any other dockets are
5 irrelevant. They are in different proceedings. As
6 Mr. Rowland points out, they had their compliance
7 several months before Nexus had their compliance and
8 so they should be several months ahead of Nexus. I
9 think that Mr. Rowland has indicated he would be
10 willing to extend -- or accept DRs next week. Staff
11 has suggested -- we're off by one to two weeks. I
12 think that --

13 JUDGE RILEY: Can we find a date, a compromised
14 date somewhere in there?

15 MS. SWAN: Exactly. We were thinking the week
16 of the 11th or the week of the 18th. I think Mr.
17 Rowland has indicated the week of the 4th. So I
18 would propose that a good compromise would be the
19 week of February 11. I would suggest sometime in the
20 midweek, Wednesday or Thursday.

21 MR. LANNON: And that -- that would be for our
22 first set.

1 MS. SWAN: For our first set of DRs.

2 MR. LANNON: Now, our experience has been that
3 we have to always follow-up or threaten with demand
4 letters or with motions because many of these
5 companies do not want to provide the information
6 we're seeking.

7 MR. ROWLAND: And I'd just say for the record
8 that that has not happened with any of my clients.
9 In fact, the last status we had a couple weeks ago
10 with another ETC, staff indicated how cooperative
11 we've been and how quickly we've turned around our
12 data request. We take it very seriously, and we try
13 to answer as quickly as possible. And that's what we
14 intend to do here.

15 MR. LANNON: By we? You mean you and all of
16 clients as one entity?

17 MR. ROWLAND: No, they're all separate
18 entities.

19 MR. LANNON: Right. Separate entities.
20 Separate plans. Different ideas.

21 MR. ROWLAND: So if -- if we get the questions
22 on the 11th, that's fine.

1 MS. SWAN: Well, I would -- I said the week of
2 the 11th. I would suggest Wednesday, the 13th, or
3 Thursday, the 14th, as being a reasonable compromise
4 between your suggestion and our later suggestion.

5 MR. ROWLAND: Well, let's say Wednesday, then,
6 if we can. Let's see if we can do that. If there's
7 particular areas that you're having problems with in
8 terms of, you know, the breathe of the question, just
9 let us know. I've said this before. I mean, we're
10 available to talk, you know, to you guys. Obviously,
11 you don't want us to talk to your witness or
12 something. That's fine. We're more than willing to
13 talk to you all and move things along. We just don't
14 want to be caught up in a general slowdown for
15 whatever reason, bureaucratic or not. That's not
16 necessary if we can -- we can move things along.
17 And, in fact, as I said before, this case, whether
18 staff wants to take a fresh look at everything or
19 not, this is -- this case in particular is just an
20 expansion of the service area. And if staff wants to
21 indicate they have issues with a particular client,
22 you know, they should -- they should let us know.

1 JUDGE RILEY: That's going to depend on the
2 answers to the data requests. So staff isn't
3 prepared to get to that portion of the proceeding
4 yet.

5 MR. ROWLAND: Right. But I guess I was
6 responding to what Mike said before, which I thought
7 was a little over the top.

8 MR. LANNON: What was that?

9 MR. ROWLAND: That there have been problems
10 with other companies, nameless companies, and there
11 have been inquiries and the FBI's involvement. It
12 has nothing to do with our client so, you know --

13 MR. LANNON: We don't know that.

14 MR. ROWLAND: I don't think it's appropriate
15 for you to be saying that in relation to a particular
16 docket when you're just --

17 MR. LANNON: If you find it inappropriate,
18 that's fine. I'm saying that. We don't know that.
19 That's why we're looking into it. Everybody comes in
20 and says their client's -- everybody comes in --

21 MR. ROWLAND: Everybody's guilty. Everybody is
22 guilty is what you're saying?

1 MR. LANNON: No. We're saying we're looking
2 into everybody because of prior problems.

3 MS. SWAN: Staff has a reasonable expectation
4 to be able to investigate every company based on
5 prior concerns.

6 MR. LANNON: Your Honor, again --

7 MR. ROWLAND: And they can -- and staff can do
8 that at any time they want.

9 JUDGE RILEY: Off the record. Off the record.

10

11 (There was a discussion off
12 the record.)

13

14 JUDGE RILEY: Let's go back on the record.

15 The parties have had additional
16 discussion. And for the record, the data requests
17 are to issue on February 13 by staff to the
18 applicant. Responses from the applicant are due in
19 two weeks, on February 27. And we have set a status
20 for March 11 at 10:00 a.m., and we'll see where we
21 are at that point.

22 MR. ROWLAND: And I would just add that if

1 staff thinks they would have other questions that
2 they would just let us know shortly after they, you
3 know, get the first set, if that's possible, just
4 give us a call, and we'll work on what we can do.

5 MS. SWAN: We'll let you know as soon as we
6 can. I think we set the status at the time when we
7 think we'll know the answer to that.

8 JUDGE RILEY: Okay. All right. Then we'll
9 reconvene on March 11. And I urge the parties to
10 communicate as thoroughly as they can and get
11 everything -- get all of the data requests and
12 responses back and forth as quickly as possible.

13 MR. ROWLAND: All right. Thank you.

14 MR. LANNON: Thank you, your Honor.

15

16 (WHEREUPON, the proceedings have
17 been adjourned until, March 11,
18 2013, at the hour of 10:00 a.m.)

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